

REMARKS

No claims have been amended. Claims 1, 3 and 5-22 remain pending in the present application.

Claims 1, 3 and 5-22 stand rejected under § 103 (a) as being unpatentable over Neeson et al. (U.S. Patent No. 5,786,978) ("Neeson") in view of Bolavage (U.S. Application Publication No. 2002/0084889). The rejection is respectfully traversed.

Claim 1 recites a tracking device system comprising "a physical asset; a transmitter, attached to the physical asset, for transmitting a first data signal; a communication means for receiving the first data signal and transmitting a second data signal; and a receiving means for receiving the second data signal from the communication means via a world wide web connection and for housing a software program for enabling a user to track the physical asset, wherein the physical asset, the communication means and the receiving means are in continuous communication and track the location of the physical asset."

Claim 3 recites a method of tracking an asset comprising the steps of "forming a communications network by forming a world wide web connection between a personal computer and central server; transmitting a first data signal in real-time, via the communications network, from the personal computer to the central server to inquire the location of a physical asset; communicating with the physical asset from the central server via the communications network; tracking the physical asset by transmitting a second data signal over the communications network; interrogating the second data signal to determine a status signal; and storing the determined status signal in the central server." Claims 20 and 21 recite similar features.

Claims 19 recites, *inter alia*, a computer system comprising "at least one website linked to the at least one server through the computer network, wherein the

website provides a user interface through which a user can access a tracking program; and a tracking module.” Claim 19 further recites that the tracking module comprises a tracking device system comprising: “a physical asset; a transmitter, attached to the physical asset, for transmitting a first data signal; a communication means for receiving the first data signal and transmitting a second data signal; and a receiving means for receiving the second data signal from the communication means, wherein the physical asset, the communication means and the receiving means are in continuous communication and track the location of the physical asset.”

Neeson and Bolavage, whether considered alone or in combination, fail to provide a motivation to combine the cited references to achieve the claimed invention. In other words, there would not have been a motivation to combine Neeson and Bolavage to achieve a tracking device system comprising “[a] physical asset, . . . [a] communication means, . . . and [a] receiving means for receiving the second data signal from the communication means via a world wide web connection and for housing a software program for enabling a user to track the physical asset,” all in continuous communication to track the location of a physical asset, as recited in claim 1. Likewise, there is no motivation to combine Neeson and Bolvage to achieve a tracking method comprising the steps of “forming a communications network by forming a world wide web connection between a personal computer and central server; transmitting a first data signal in real-time, via the communications network, from the personal computer to the central server to inquire the location of a physical asset; . . . [and] tracking the physical asset by transmitting a second data signal,” as recited in claim 3.

As articulated previously by Applicant, Neeson generally refers to an apparatus for tracking and reporting equipment inventory on a locomotive equipped with a mobile communications package. More specifically though, Neeson refers to a communications network in which a central station communicates with its locomotives

and thus, indirectly has the ability to track the locomotive by determining which communication station is being used to communicate. Contrary to the Office Action, Neeson in fact has no relevance to an asset tracking system as claimed in the present application.

The new cited reference, Bolavage generally refers to a method and apparatus for communicating with RF tags using multiple frequencies. In particular, Bolavage refers to a method that can communicate with tags from various manufacturers. The Bolavage system is not designed to, or even relevant to, a system designed to track the location of physical assets.

Applicant respectfully submits that the cited references are defective, similar to the previous cited combination, and relate to completely different arts. Neeson relates to a communications system and Bolavage relates to a communication network that eliminates the need for tags having an identical manufacturer. One of ordinary skill in the art at the time of invention would not have looked to a tag communication system seeking to provide a system that can communicate with tags from various manufacturers to modify a train communication system to achieve a tracking device system comprising "[a] physical asset, . . . [a] communication means, . . . and [a] receiving means for receiving the second data signal from the communication means via a world wide web connection and for housing a software program for enabling a user to track the physical asset," all in continuous communication to track the location of a physical asset, as recited in claim 1. Likewise, one of skill in the art would not have been motivated to combine Neeson and Bolavage to achieve a tracking method comprising the steps of "forming a communications network by forming a world wide web connection between a personal computer and central server; transmitting a first data signal in real-time, via the communications network, from the personal computer to the central server to inquire the location of a physical asset; . . . [and] tracking the

physical asset by transmitting a second data signal,” as recited in claim 3. Claims 19-21 contain similar limitations. Accordingly, it would not have been obvious to one of ordinary skill in the art to combine Neeson and Bolavage to achieve the physical asset tracking system of the claimed invention.

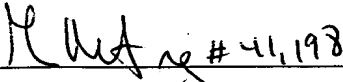
As Applicant has highlighted before, obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found in the references themselves. In re Fine, 837 F.2d 1071, 5 USPQ.2d 1596 (Fed. Cir. 1988). The Federal Circuit requires that, in order to prove that a claim is obvious in light of two or more prior art references, a teaching, suggestion or motivation to combine the two must be shown. Teleflex v. KSR Intl. Co., 119 Fed. Appx. 282 (Fed. Cir. 2005). There is no suggestion or motivation in any of the references for combining them to arrive at the claimed invention. Neeson and Bolavage are two entirely different inventions in two different fields. The Office Action is using impermissible hindsight by using the claims of the present invention as a road map to improperly combine the references. See Ex parte Clapp, 227 U.S.P.Q. 972, 973 (Bd. App. 1985); M.P.E.P. §2144.

Therefore, Applicant respectfully submits that the cited combination fails to render obvious all limitations of claims 1, 3 and 19-21 and thus, it would not have been obvious to one of ordinary skill in the art to combine the cited references to achieve the claimed invention. Claims 4-9 depend from claim 3 and should be allowable along with claim 3. Claims 10-18 depend from claim 1 and should be allowable along with claim 1. Claim 22 depends from claim 21 and should be allowable along with claim 21. Accordingly, Applicant respectfully requests that the rejection be reconsidered and withdrawn, and claims 1, 3 and 5-22 allowed.

In view of the above, Applicant believes the pending application is in condition for allowance.

Dated: March 12, 2007

Respectfully submitted,

By  # 41,198

Philip G. Hampton, II

Registration No.: 30,642

DICKSTEIN SHAPIRO LLP

1825 Eye Street, NW

Washington, DC 20006-5403

(202) 420-2200

Attorney for Applicant